3271

SUPREME COURT OF THE UNITED STATES.

No. 168.

THE UNITED STATES, APPELLANTS,

vs.

AGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTELLER AND JOSEPH L. BRENT.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this twenty-ninth day of October, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Augustin Olvera et al., for the place named "Los Alamos y Agua Caliente," was presented and ordered to be filed, and docketed with No. 428, and is as follows, to wit:

(Vide page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *November 6th*, 1852.

In case No. 428, Agustin Olvera et al., for the place named "Los Alamos y Agua Caliente," the deposition of Francisco Lopez, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed.

(Vide page 5 of this transcript.)

LOS ANGELES, *November 13th*, 1852.

In the same case, the deposition of Abel Stearns, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with documents marked H. H. Nos. 1, 2 and 3, and translations annexed thereto, was filed.

(Vide page 6 of this transcript.)

SAN FRANCISCO, *October 13th*, 1853.

In the same case, the deposition of José Maria Covarrubias, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell, was filed.

(Vide page 7 of this transcript.)

SAN FRANCISCO, *May 2d*, 1854.

On motion of the counsel for the claimants, case No. 428 was ordered to be placed at the foot of the calendar of the 1st class cases on the trial docket.

SAN FRANCISCO, *July 25th*, 1854.

Case No. 428 was submitted on briefs on both sides.

The U. S. associate law agent was present.

In answer to inquiries by the claimants' counsel, the witness testified as follows:

My name is Abel Stearns; my age fifty-four years, and I reside in Los Angeles.

A paper is shown me, purporting to be a grant to Francisco Lopez, Luis Jordan and Vicente Boteller, dated May 27th, 1846.

The signatures of Pio Pico and José Matias Moreno in said paper, with which I am acquainted, I believe to be genuine; said paper is hereto annexed, and marked H. H. No. 1.

Another paper is shown me, purporting to be a certificate of denouncement, dated 27th May, 1846. The signature of José Matias Moreno to said paper I believe to be genuine; it is hereto annexed, and marked H. H. No. 2.

He was acting as secretary at the date of the paper.

A paper is also shown me, purporting to be a map, with a certificate of José Matias Moreno upon it without date.

I believe the signature of said Moreno on the paper to be genuine; said paper is hereto annexed, and marked H. H. No. 3.

ABEL STEARNS.

Sworn and subscribed before me.

HILAND HALL,
Commissioner.

Filed in office November 13th, 1852.

GEO. FISHER, *Secretary.*

Deposition of Jose Maria Covarrubias.

OFFICE OF BOARD OF COMMISSIONERS, *&c., &c.*

This day, before Commissioner Thompson Campbell, came José Maria Covarrubias, a witness in behalf of claimants, Agustin Olvera et al., No. 428, who after being duly sworn, deposed as follows:

What is your name, age, and place of residence?

My name is José Maria Covarrubias; my age is forty-five years, and I reside in Santa Barbara.

Are you acquainted with the Lomeria de Castro and Porto Suella de Castro? if so, how long have you known them by that name?

I do know those places; I have been there twice, in 1841 and in 1842; they were then called by those names.

Associate law agent present.

J. M. COVARRUBIAS.

Sworn to and subscribed before me, this 13th day of October, A. D. 1853.

THOMPSON CAMPBELL, *Commissioner.*

Filed in office October 13th, 1853.

GEO. FISHER, *Secretary.*

[*For map see original, between pages* 8 *and* 9.]

Expediente.

[1 S. D. K.]

1846.

Expediente promovido por Dn. Franco. R. Lopez, y socios denunciando el parage conocido con el nombre de Alamos y Agua Caliente, año de 1845.

No. 560.

[2 S. D. K.]

[SEAL.]

EX'MO SENOR GOBERNADOR: Francisco R. Lopez, Luis Jordan, y Vicente Botiller, Mejicanos, por nacimiento y residentes en esta capital ante V. E. respetunamente y conforme haja lugar segun derecho nos corresponde, nos presentamos diciendo: Que en virtud de tener un numero considerable de bienes de Campo que fomentar, y hallandonos puntualmente necesitados de un numero util para que nuestros intereses puedan permanecer veanidos, y adelantar en lo sucesivo, nos es de precisa necessidad implorar á la bondad de V. E. á fin de que se [3 S. D. K.] nos coneda el terreno conocido con el nombre de los Alamos y Agua Caliente, el cual pertenece á la propiedad de D. Pedro Carrillo, por justo titulo que se le libro por el gobierno de este departamento, y en virtud de haver faltado el Señor Carrillo, al articulo 1o del correspondiente despacho segun la ley previene, y que como hasta la f'ha no lo ha cultivado; lo denuncianos como baldio que actualmente se halla. Por tanto A. V. E.

Rendidamente suplicamos el que aduista esta un solicitud y que curran las debidas informaciones atendiendo de que el lugar que pretendemos nos estundo de la necesidad que llevamos d'ho como tambien un bien general de evitar robos á los ranchos que contrimamente perjudicar, [4 S. D. K.] los indios Ladrones, y de consiguiente fabricar casa y poner algunos arboles frutales para la mantencion, dispensando el que vaya esta en papel comun por no haber en este lugar del sello que corresponde, favor de que le vivi-ran reconocidos recibiendo de su notoria bondad merced y gracia jurando lo necesario y no ser de maliria, &c.

Angeles, Agosto 21, de 1845.

FRANCISCO R. LOPEZ.
LUIS JORDAN.
ARRUEGO DE VICENTE BOTILLER,
CAYETANO ARENAR.

ANGELES, *Agosto* 21, *de* 1845.

Pare al alcalde 1o de esta ciudad para que haciendo citacion á las partes de Don Pedro Carrillo, le sea entregada esta solicitud á fin de que a legue lo que á su derecho convenga y concluido que sea vuelva al gobierno.

PICO.

[5 S. D. K.]

ANGELES, *Agosto* 22, *de* 1845.

Consecuente á lo que dispone la superioridad en el decreto marginal de esta instancia, corrase trastada á D. Pedro Carrillo, para que dentro de tres dias conteste lo que á su derecho convenga. Asi yo el jues 1o decrete mandé y firmé con los de asistencia segun dro.

V'TE SANCHEZ.

Ass'a, YGO. CORONEL.
Ass'a, LEONARDO COTA.

En la fecha se como el trastada y se entrego al S'or Carrillo el espediente en dos fojas.

[7 S. D. K.]

S'or Juez de 1a Ynstancia:

Pedro C. Carrillo, residente en esta ciudad ante V. con el respeto debido, y bajo los terminos mas conformes á derecho comparesco diciendo: Que contestando al traslado que de superior disposicion se ha servido V. correrme del expediente promovido por los Señores Francisco Lopez y Socios, relativo al denunciarme el parage Llamado Los Alamos y Agua Caliente que me fué adjudicado en propiedad, debo hacer presente; que d'hos denunciantes dicen tener un numero considerable de bienes de Campo y que necessitan un terreno util para que puedan permanecen reunidos, no se S'or Juez de que clase seran esos bienes de Campo, por que es publico que ninguno de los tres es propietario del numero de vacas de vientre que la ley exige para ser admitidas sus solicitudes de esta naturaliza; por que respecto al primero, [8 S. D. K.] no sé hasta hoy que sea poscedon de una yunta de bueyes si quiera, el segundo se sabe que el poco ganado que quedo en su poder en de los herederos del finado Don Antonio Rocha, y estos tienen un parage concedido y és en el que actualmente se hallan los bienes, el tercero, ignoro en lo absoluto si tiene algun Caballo ó nó, pero en fin ninguno de los tres tiene los bienes de la ley, como he dicho ni menos tienen proporciones para impedir los robos de los indios, como lo ofrecen, pues para eso se necesita un destacamento de hombres armados; bajo esta virtud. Suplico á V. se sirva tomar informacion de personas fide dignas Sobre la Clare y numero de bienes de Campo que porcen d'hos denunciantes, y concluido se sirva devolvesme el expediente para alegar lo que á mi derecho conviene.

Juro &a. Admitiendome en este papel por falta del sellado.

Angeles, Agosto 27, de 1845.

PEDRO C. CARRILLO.

[9 S. D. K.]

E. S. Tengo el honor de elevar á mano de V. E. el ante negocio segun se me previene.

V'TE SANCHEZ.

ANGELES, *Agosto* 30, *de* 1845.

[SEAL.]

No tocando á la parte de D. Pedro Carrillo calificar si los interesados en la instancia con que dá principio este espediente obtienen ó nó los requisitos legales para ser atendidos, vuelva al S'or alcalde 1a de esta capital á fin de que haga nuevo traslado al S'or Carrillo para que alegue lo que erca de su derecho con respecto al denuncio del terreno de los alamos.

PICO.

Angeles, Agosto 30, de 1845.

[10 S. D. K.]

Como dispone la superioridad traslado por tres dias utiles á D. Pedro Carrillo.

Asi lo decrete y mandé yó el juez que subscribe segun dso.

VICENTE SANCHEZ.

Ass'a, YGO. CORONEL,
Ass'a, LEONARDO COTA.

[11 S. D. K.]

S'or Juez de 1a Ynstancia:

Pedro C. Carrillo, de esta veciudad ante V. como mejor paresca en derecho me presento diciendo; que como muchas occasiones no puede uno preveer los contratiempos á que se halla expuesto, y habiendome sido á mi repetidos he encontrado dificultades para del pronto ocupar el terreno de mi propiedad que hoy se me ha denunciado, mas no por esto ha sido mi intension abandonarlo ni le pierdo la voluntad, y para el logro de su fundarion erco bien que el superior gobierno, usara de la prudencia que le es propia favoreciendome con su consideracion y por tanto concluyo pidiendo que mediante á la antigua propiedad que por justo titulo adqueré, se me señale un plazo suficiente que me dé lugar a fomentarlo, bajo la solemne protesta que cumpline fielmente y de no hacerlo, haya lugar al denuncio gracia, [12 S. D. K.] que erpero alcanzan del ex'mo s'or gobernador juro, &a.

Angeles, Setiembre 5, de 1845.

PEDRO C. CARRILLO.

E. S. Habiendo cumplido con lo que dispone la superioridad tengo el honor de poner este espediente en manos de V. E.

V'TE SANCHEZ.

[13 S. D. K.]

ANGELES, *Setiembre* 6, *de* 1845.

[SEAL.]

Visto el ultimo escrito de la parte de Dn. Pedro Carrillo, con que concluye este expediente, teniendo por legal el impedimento

que le ha hicho difficil la ocupacion del parage de los Alamos segun sufranca conferion y atendiendo á la suplica que implora del superior gobierno para poderlo fomentar; he venido en concederle la proroga de siete meses contados desde hoy para que lo verifique en la inteligencia que si llegado el plazo no hubiere cumplido conforme ahora se ha dispuesto, habrá lugar al denuncio por parte de los que representaren y se les adjudicara en propiedad el nominado terreno de los Alamos y Agua Caliente, jures el gobierno no puede peranitir que los terrenos distribuidos capaces de ocupare, se hallen sin el cultivo que es indispensable.

Notifiquese le á la parte de Dn. Pedro Carrillo la presente disposicion para su intelligencia y devuelva este [14 S. D. K.] á los interesados por no haber tenido lugar en esta vez su ocurro. Pio Pico, goberbador interino del departamento de las Califórnias, lo decreté, mandé y firmé, doy fé.

PIO PICO.

[L. S.] ANGELES, *a* 27 *de Mayo, de* 1846.

Teniendo presente este gobierno en virtud de las diligencias que obran en este espediente con relacion al denuncio que han hecho en 21 de Agosto del año parado los ciudadanos Francisco R. Lopez, Luis Jordan y Vicente Botiller, del parage de los Alamos y en vista de haber transcurrido mas de los siete meses que en proroga se le concedieron al ciudadano Pedro C. Carrillo, para que lo poblara conformé á lo dispuesto por leyes y reglamentos de colonizacion, y teniendo presente los perpricios que se causan á la industria del pais por la no ocupacion de los terrenos colonizables; asi como los que recienten los senores que denuncian este parage por carecer de un terreno en donde puedan desarrollan su industria.

[15 S. D. K.]

EXMO. SOR.: Francisco Lopez, Luis Jordan, y Vicente Botiller, residentes en esta capital ante V. E. respectuosamente y como mas haya lugar segun derecho, nos presentamos diciendo.

Que en virtud de habersele cumplido el plazo de siete meses condados desde el dia seis del pp'do Setiembre que pr. superior disposicion se le notificó á la parte del ciudadano Pedro Carrillo á fin de que en este termino cultivase el parage de los Alamos y Agua Caliente que le fue denunciado por los que se suscriben con f'ha veinticinco de Agosto, del año anterior, y que habiendo faltado dho. Sor. Carrillo tanto al referido plazo como á la suplica [16 S. D. K.] que de V. E. imploro pidiendole le impusiese una proroga considerable que le diese lugar á cultivarlo, bajo la inteligencia que cumplirá con lo dispuesto por la superioridad segun el ultimo decreto concluyo el espediente de la materia, y que de no verificarlo habrá lugar al denuncio, que por parte de los esponentes se le hasia.

En consecuencia de esto á V. E. pedimos se sirva disponer que

conforme á lo prevenido por el precitado decreto y de conformidad con la ley de 18 de Agosto, de 1824, y reglamento de 21 de Noviembre, de 1828, se nos adjudique en propiedad el nominado terreno en razon de habesse yá cumplido el mencionado plazo y conciderarnos acredores á el. Por tanto.

A. V. E. Rendidamente suplicamos tenga á bien obsequiamos con su proteccion [17 S. D. K.] esperando de su notoria bondad merced y gracia jurando lo necesario y no ser de maliera &a. Sirviendose admitir esto en papel comun por no haber en este lugar del sello que corresponde.

Angeles, Abril 8, de 1846. FRANCISCO LOPEZ.
LUIS JORDAN.
A ruego VICENTE BOTILLER,
por no saber firman, CAYETANO ARENAN.

[18 S. D. K.]

Y mantener sus bienes de Campo, he venido por las presentes letras en disponer como dispongo que ha lugar al denuncio del parage de los Alamos, en favor de los Señores Lopez Jordan y Botiller a quienes se les librara et titulo respectivo con arreglo a las leyes de la materia. Notifiquese a los interesados este decreto para su conocimiento y fines consiguientes, y a Dn. Pedro C. Carrillo para su inteligencia en concepto de no haber cumplido con la ampleacion de tiempo que se le concedio por este gobierno en seis de Setiembre del año anterior.

Pio Pico, gobernador constitucional del departamento de Californias asi lo mando decreto y firmo doy fé. PIO PICO.

JOSE MATIAS MORENO, *S'rio Ynt'o.*

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my control a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify, that the eighteen preceding and hereunto annexed pages of tracing paper, numbered from one to eighteen inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents on file and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of office) [L. S.] at the city of San Francisco, Cal., the fifth day of November, 1852.

(Signed) SAM'L D. KING, *Sur'r Gen'l Cal.*

Filed in office July 10th, 1854.

(Signed) GEO. FISHER, *Secretary.*

[REC. CLXVIII, D. T., 1858.]—2

Translation of Espediente.

[L. S.]

Most Excellent Sir Governor:

Francisco R. Lopez, Luis Jordan and Vicente Boteller, Mexicans by birth, and residents of this capital, before your excellency, respectfully, and in conformity with the appropriate law, present ourselves, stating that, having a considerable number of stock to provide for, and requiring a proper tract of land that our stock may be united, in order to increase the same, we are under the precise necessity of imploring the goodness of your excellency to grant to us the tract known by the name of "Los Alamos and Agua Caliente," which belongs to the property of Don Pedro Carrillo, by just title which was issued to him by the government of this department; and in consequence of Mr. Carrillo's non-compliance with art. 1st of the corresponding patent, according to law, and his not having cultivated the same up to the present time, we denounce the same as vacant, in which situation it actually is.

Therefore we humbly solicit your excellency to admit my present petition, and to make the necessary inquiries, taking into consideration that we require, as we have above stated, the land we claim, as likewise that it will be a benefit to the community to avoid (provide against) the robberies continually committed by the Indian robbers, as likewise to construct a house, plant some fruit vines to subsist on.

Please admit the present on common paper, there being none of the appropriate stamps in this place, a favor which we shall acknowledge, relying on your goodness, mercy and grace, making the necessary oath not to proceed through malice, &c.

FRANCISCO R. LOPEZ.
LUIS JORDAN.
Signed for VICENTE BOTELLER,
CAYETANO OLVERAS.

Angeles, August 21st, 1845.

ANGELES, *August* 21*st*, 1845.

Let this proceed to the first alcalde of this city, that he may summon Dn. Pedro Carillo, and that this petition be delivered to him, that he may allege what he may deem proper in his rights, on conclusion of which let the same be returned to this government.

PICO.

ANGELES, *August* 22*d*, 1845.

In conformity with the superior order contained in the marginal decree of this instance, a transcript of the same was issued to Don Pedro Carillo, that he might within three days answer what he may deem proper in his rights.

I, the first judge, have thus decreed, ordered and signed, with my assistants, according to law.

VICENTE SANCHEZ.

Assistant, IGNACIO CORONEL,
Assistant, LEONARDO COTA.

On this day the transcript was issued and handed to P. Carrillo, in conformity with the espediente on this page.

Mr. Judge of First Instance:

Pedro C. Carrillo, of this vicinity, as he deems most proper, presents himself before you, saying that, in reply to the transcript which your superior disposition has been pleased to remit to me of the espediente, promoted by the Señores Francisco Lopez and partners, relative to denouncing the premises called Los Alamos and Agua Caliente, the property of which was adjudicated to me by the superior departmental government—

I have to remark, that the parties denouncing state that they possess a considerable number of stock, and that they are in want of a tract of land to keep it together. I do not know, Mr. Judge, what this stock consists of, it being public that neither of the three possesses the number of vacas de vientro (cows capable of increasing) which the law requires, in order to grant petitions of this nature. Respecting the former, I am, up to this day, not aware that they own a single yoke of oxen; as to the second, it is known that the small amount of cattle that remains in their possession belongs to the heirs of the late Don Antonio Rocha; and they possess a tract granted to them, and it is the same on which such cattle actually exist. I am ignorant whether there is a house either on the land or not; but to conclude, neither of the three possess the stock required by law, as I have already alluded to, neither do they possess means to counteract the robberies committed by the Indians as they offer to do; a party of armed men being required for that purpose, in accordance with which you please inform yourself, with trustworthy persons, as to the class and number the parties denouncing possess; which having been done, you will please return to me the espediente, that I may allege what I may deem proper in my rights. I make oath, &c., &c., requesting you to admit the present on this paper for the want of the stamped.

Angeles, August 27th, 1845.

PEDRO C. CARILLO.

MOST EXCELLENT SIR: I have the honor to transmit to your hands the foregoing as has been provided.

VTE. SANCHEZ.

[L. S.] ANGELES, *August 30th*, 1845.

As it does not become Dn. Pedro Carillo to qualify the parties intrusted in the instance with which this espediente originates,

whether they possess or not the legal requisites to entitle them to be heard, let the same be returned to the 1st alcalde of this capital, that he may issue another transcript to Mr. Carrillo, to enable him to allege what he deems proper respecting the denouncing the tract of Los Alamos.

PICO.

ANGELES, *August 30th*, 1845.

According to the superior disposition transcribed for three days to Don Pedro Carrillo, I, the undersigned judge, have so decreed and ordered according to law.

VTE. SANCHEZ.

Ass't, IG'O CORONEL,
Ass't, LEONARDO COTA.

Mr. Judge of 1st Instance:

Pedro C. Carillo, of this vicinity, before you, as in his rights he deems most proper, appears and states, that as, on many occasions, one is not able to foresee the obstacles which one is exposed to, such having placed themselves into my way repeatedly, I have met with difficulties to occupy soon the tract I own, which has this day been denounced; it has not been my intention to abandon the same nor my wish to lose it, for the attainment of which purpose I do believe that the superior government will use its accustomed prudence, favoring me with its consideration. I therefore conclude, that by means of the ownership which I acquired by just title, a time (space of time) may be fixed sufficient to give me time to provide for the necessary , under the solemn protest that the same shall be strictly fulfilled, and, by not complying therewith, denunciation shall take place again, I expect to meet with from the most excellent governor. I make oath, &c., &c.

Angeles, Sept. 5th, 1845.

PEDRO C. CARILLO.

MOST EXCELLENT SIR: Having complied with the disposition of the superiority, I have the honor to place this espediente into the hands of your excellency.

VTE. SANCHEZ.

[L. S.] ANGELES, *September 6th*, 1845.

Seen the last writing of Don Pedro Carillo, with which this espediente terminates. Considering the impediment legal, that difficulties have opposed his occupation of the tract of Los Alamos according to his frank confession, and granting his petition to the superior government, that he may take his measures, I have come to grant to him a term of seven months, commencing to-day, that he may execute the same; with the condition, that if at the expiration of the period he should not have complied with the present disposition, the denunciation shall take place by the

parties who presented themselves, and the tract in question shall be adjudicated to them as properly being the tract of Los Alamos and Agua Caliente, as the government cannot permit that the lands distributed, that are capable of being occupied, remain uncultivated, which is indispensable.

Let the present disposition be notified to Pedro Carrillo for his intelligence, and let the espediente be returned to the parties interested, their course not having been adopted this time.

Pio Pico, governor ad interim of the department of the Californias, have so decreed, ordered and signed, which I certify.

PIO PICO.

MOST EXCELLENT SIR: Francisco Lopez, Luis Jordan, and Vicente Boteller, residents of this capital, before your excellency respectfully, as they deem most proper according to law, present themselves and say:

That the time of seven months, commencing on the 6th day of September last, which was given by superior disposition to the citizen Pedro Carrillo for the purpose of cultivating the tract of Los Alamos and Agua Caliente, which was denounced by the undersigned on the 21st of August last year, having expired, and said Mr. Carrillo having failed to comply with the said terms, imploring your excellency to give him sufficient time to cultivate the same, with the understanding that he would comply with the disposition of the superiority in accordance with the last decree, which terminates the espediente on the subject; and in case he should not comply with the same, the same might be denounced, which should be done by the parties exposed.

By virtue whereof we solicit your excellency that you will order that, in conformity with the above mentioned and the decree referred to, and in accordance with the law of 18th August, 1824, and regulation of 21st November, 1828, that the ownership of the tract in question be adjudicated to us.

The term having expired, and considering ourselves entitled thereto, we therefore solicit your excellency to favor us with your protection, relying on your celebrated goodness, mercy and grace, making the necessary oath, and not proceeding through malice, &c. Be pleased to admit the present on common paper, there being none of the appropriate stamped in this place.

Angeles, April 8th, 1846.

FRANCISCO LOPEZ.
LUIS JORDAN.
Signed for VICENTE BOTELLER,
who cannot write, CAYETANO OLVERAS.

[L. S.] ANGELES, 27*th May*, 1846.

This government recalling to its memory the denunciations made by the citizens Francisco R. Lopez, Luis Jordan, and Vicente

Boteller, on the 20th of August of last year, of the tract of Los Alamos and Agua Caliente, in accordance with the minutes of this espediente, and taking in consideration that the seven months, which term was granted to the citizen Pedro C. Carrillo to stock the same in conformity with the former dispositions and laws and regulations relating to colonization, and taking in consideration the injury caused to industry of this country by not occupying the lands that are capable of colonization, and whereas those denouncing require a tract to enable them to exhibit their industry and maintain their stock, I have come, by the present letters, to the following disposition:

That the denunciation of the tract of Los Alamos, in favor of the Señores Lopez, Jordan, and Boteller, may take place, to whom the appropriate title shall be issued in accordance with the laws on the subject.

Let the parties interested be notified of this decree for their government, and further ends, and likewise Pedro C. Carrillo for his intelligence.

In consequence of his not having complied with the extension of time which was granted to him by this government on the 6th September last year, Pio Pico, constitutional governor of the department of the Californias, has so ordered, decreed and signed. I certify.

PIO PICO.

JOSE MATIAS MORENO,
Secretary ad interim.

Filed in office July 10th, 1854.

GEO. FISHER, *Secretary.*

(Initials) H. H. No. 1.

Document "H. H. No. 1," annexed to the Deposition of Abel Stearns.

Pio Pico, Gobernador Constitucional del Departamento de las Californias.

[SEAL.]

Por cuanto los ciudadanos Francisco Lopez, Luis Jordan y Vicente Botiller, Mejicanos por nacimiento han pretendido para su beneficio personal y el de sus familias el terreno conocido bajo el nombre de los Alamos y Agua Caliente; practicadas previamente las averiguaciones concernientes usando de las facultades que me son conferidas á nombre de la nacion Mejicano he venido por decreto de este dia en concederles el mencionado terreno declarandoles la propiedad de él por las presentes letras de conformidad con la ley de 18 de Agosto de 1824, y reglamento de 21 de Noviembre, de 1828, á reserva de la aprobacion de la ex'ma asamblea departamental y bajo las condiciones siguientes:

1a. Podran cercarlo sin perjudicar las travecias caminos y servidumbres lo disfrutaran libre y esclusivamente destinandolo al uso y cultivo que mas les convenga.

2a. Solicitaran del juez respectivo les de la posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondran las mojoneros necesarias.

3a. El terreno de que se les hace donacion es puramente el de seis sitios de ganado mayor dentro de los limites del diseño que corre agregado al espediente.

El juez que los posesione lo hara medir con arreglo á ordenanza que dando el sobrante que resulte á la nacion para los usos que sean convenientes.

4a. Si contravenieren á estas condiciones perderan su derecho al terreno y será denunciable por otro.

En consecuencia mando que teniendose el presente titulo por firme y valedero se tome razón de él en el libro respectivo y se entregue á los interesados para su resguardo y demas fines.

Dado en la ciudad de Los Angeles en este papel comun por falta del sellado á veintisiete de Mayo de mil ochocientos cuarenta y seis.

(Signed) PIO PICO.

(Signed) JOSE MATIAS MORENO,
S'rio Ynt'o.

Queda tomada razon de este superior despacho en el libro respectivo.

Angeles, f'ha up. supra.

(Signed) MORENO.

Filed in office, October 29th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

B.—Translation of A.

Pio Pico, Constitutional Governor of the Department of the Californias.

Whereas citizens Francisco Lopez, Luis Jordan and Vicente Boteller, Mexicans by birth, have petitioned, for their personal benefit and that of their families, the land known under the name of "Los Alamos and Agua Caliente," the proper conditions being previously complied with, in virtue of the faculties which are conferred on me, in the name of the Mexican nation—

I hereby grant to them, by decree of this day, the aforesaid, declaring to them the right of ownership, by these present letters, in conformity with the law of the 18th of August, 1824, and the regulation of the 21st of November, 1828, with the reservation of the approbation of the excellent departmental assembly and under the following conditions:

1. They may enclose it without prejudice to the crossings, roads,

and servitudes. They shall possess it free and exclusively, devoting it to such use and culture as best may suit them.

2. They shall solicit of the proper judge that he may give them the juridical possession in virtue of this despatch, by whom the boundaries shall be marked, upon whose limits they shall place the necessary landmarks.

3. The land of which donation is made to them is exactly that of six square leagues, (seis sitio de ganado mayor,) within the limits of the map which accompanied the espediente. The judge who may give him juridical possession shall cause it to be measured agreeably to ordinance, the surplus that results remaining to the nation, for the uses that may be suitable.

4. If they should contravene to these conditions, they shall lose their right to the land, and it shall be denounceable by another.

In consequence, I command, the present title being held as firm and valid, record be made of it in the respective book, and that it be delivered to the interested parties for their safeguard and further ends.

Given in the city of Los Angeles, on this common paper, for want of the sealed, this twenty-seventh of May, one thousand eight hundred and forty-six.

PIO PICO.

JOSE MATIAS MORENO,
Secretary ad interim.

Record is made of this superior despatch in the respective book. Angeles, date as above.

MORENA.

Filed in office October 29th, 1852.

GEO. FISHER, *Secretary.*

Conveyance to Agustin Olvera.

A todos quienes las presentes vieren sabed como nosotros Francisco Lopez, y esposa Maria Antonia Feliz de Lopez vecinos del condado de Los Angeles y Estado de California como partes primeras por y en consideracion a valor recibido en nuestras manos y á nuestra entera satisfaccion de Agustin Olvera como parte segundo tambien vecino del condado y Estado espresados hemos vendido, cedido y traspasado y por las presentes declaramos vender ceder y traspasar para siempre jamas á favor del referido Agustin Olvera y de sus herederos y sucesores todo cuanto derecho purdainos tener en el parage de los Alamos situado dentro del condado de los Angeles y Estado mencionado concedido por Don Pio Pico, gobernador de California, con fecha veintisiete de Mayo de mil ochocientos cuarenta y seis á Francisco R. Lopez nuestro hijo ya difunto a Luis Jordan y á Vicente Botiller, por cuya virtud siendo dueños nosotros las partes arriba dichas de una tercera parte del referido terreno que se halla indiviso como herederos legitimos y

unicos y ademas instituidos por nuestro difunto hijo Francisco R. Lopez en su testamento repetimos que todo cuanto derecho nos pudiera corresponder en el terreno de los alamos queda trasparado en favor de Agustin Olvera y de sus herederos y sucesores en virtud de la justa compensacion que nos ha hecho; todo lo cual ejecutamos de nuestra libre voluntad, y con entero gusto sin que haya habido de influjo alguno seducion; violencia, engaño ni irregularidad de ninguna clase por cuya razon podra disponer Agustin Olvera del mencionado terreno de los Alamos como de cosa legitima y bien adquirida pues esta libre de todo gravamen, no teniendolo vendido, donado ni hipotecado ni de ninguna manera obligado.

Y en prueba de ser cierto cuanto queda relacionado en esta escritura y desapoderamos de todo herecho obligamos nuestras personas y bienes, las de nuestros derederos, alvaccas y legitimos representantes para que sea cumplido y llevado á puro y debido efecto cuanto aqui se contiene. En cuyo testimonio ponemos nuestros nombres y sellos hoy 15 de Octubre, del año de 1852, en la ciudad de Los Angeles condado del mismo nombre y Estado de California.

(Signed) FRANCISCO LOPEZ. [SEAL.]

(Signed) MARIA ANT'A ⋈ (her mark.) FELIZ DE LOPEZ. [SEAL.]

Witness: (Signed) H. B. MYLES.

STATE OF CALIFORNIA,
County of Los Angeles.

Be it remembered, that on this fifteenth day of October, (1852,) in the year of our Lord one thousand eight hundred and fifty-two, before me, Wilson W. Jones, clerk of the county court of Los Angeles county, personally appeared Francisco Lopez, and Maria Antonia Feliz de Lopez his wife, known to me to be the persons who executed the foregoing document, and described therein, and acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned; and the said Maria Antonia Feliz being by me examined apart from and without the hearing of her said husband, acknowledged that she had executed the same without fear or compulsion of her said husband, but for the uses and purposes therein mentioned.

As witness my hand and official seal affixed on this fifteenth day of October, A. D. 1852, at my office, in the city of Los Angeles. [L. S.]

(Signed) WILSON W. JONES, *Cl'k.*
Per H. R. MYLES, *Dep'y.*

Received the foregoing document for record on the 18th Jan'y, 1853, at 15 minutes past ten o'clock a. m.

WILSON JONES, *Recorder.*
Per H. R. MYLES, *Dep'y.*

Recorded the above and foregoing document on the 18th day of January, A. D. 1853, at twenty minutes past nine o'clock p. m., in 1st book of deeds and mortgages, on pages 283 and 284, at the request of Agustin Olvera.

WILSON W. JONES, *Recorder.*
Per H. R. MYLES, *Deputy.*

Filed in office July 10th, 1854.
(Signed) GEO. FISHER, *Secretary.*

B.—*Translation of A.*

To all whom these presents may come, greeting: that we, Francisco Lopez, and Maria Antonia Feles de Lopez his wife, residents of the county of Los Angeles and State of California, as parties of the first part, for and in consideration of value received in our hands, and to our entire satisfaction, from Agustin Olvera, as party of the second part, also a resident of the county and State aforesaid, we have sold, ceded, and transferred, and by these presents we declare to sell, to cede, and to transfer, forever, in favor of the said Agustin Olvera, and of his heirs and successors, whatever right we may have in the tract of "Los Alamos," situate in the present county of Los Angeles and State aforesaid, which was conceded by Don Pio Pico, as governor of California, bearing date the twenty-seventh of May, one thousand eight hundred and forty-six, to Francisco R. Lopez, our son, now deceased, and to Luis Jordan, and to Vicente Boteller, in virtue of which we the parties aforesaid being owners of one-third part of the said land which is found undivided, as legitimate and sole heirs, and also as testamentary heirs of our deceased son.

We repeat, that whatever right may correspond to us on the land of Los Alamos is hereby transferred in favor of Agustin Olvera, and of his heirs and successors, in virtue of the just compensation that he has made to us, all of which we execute of our free will and entire pleasure, without our being influenced by seduction, violence, or fraud, nor irregularity in any manner.

For which reason Agustin Olvera shall dispose of the aforesaid land of "Los Alamos" as of a legitimate thing, and properly acquired, as it is free from all burden, it not being sold, donated, nor mortgaged.

And in proof of being certain whatever is expressed in this writing, and to dispossess ourselves of all right, we pledge our persons and property, those of our heirs and successors, executors and legal representatives, that it may be fulfilled and put into due and proper effect whatever is therein contained.

In testimony of which we fix our names and seals on this 15th

of Oct., of the year 1852, at the city of Los Angeles, county of the same name, and State of California.

FRANCISCO LOPEZ. [SEAL.]

her
MARIA ANTONIA ⋈ FELIZ DE LOPEZ.
mark.

Witness: H. B. MYLES.

Filed in office, July 10th, 1854.

GEO. FISHER, *Secretary.*

Document H. H. No. 2, annexed to the deposition of Abel Stearns.

[H. H. No. 2.]

Secretaria de gobierno
{ Place of Eagle. }
del dep'to de Californias.

En el denuncio intentado por V. V. en 21 de Agosto, del año parado del parage de los Alamos, de Don Pedro Catarino Carrillo, ha recaido el superior decreto siguiente.

ANGELES, 27 *de Mayo, de* 1846.

Teniendo presente este gobierno en vista de las diligencias que obran en este espediente con relacion al denuncio que han hecho en 21 de Agosto, del año pasado los ciudadanos Francisco Lopez, Luis Jordan, y Vicente Botiller, del parage de los Alamos, y en vista de haber trascurrido mas de los siete meses que en prorroga se le concedieron al ciudadado Pedro C. Carrillo, para que lo poblara conforme á lo dispuesto por leyes y reglamentos de colonizacion, y teniendo presente los perjuicios que se causan á la industria del pais por la no ocupacion de los terrenos colonizables asi como los que recienten los señores que denuncion este parage por carecer de un terreno en donde puedan desarrollar su industria y mantener sus bienes de Campo, he venido por las presentes letras en disponer como dispongo, que ha lugar al denuncio del parage de los Alamos en favor de los Señores Lopez, Jordan, y Botiller, aquienes se les librara el titulo respectivo con arreglo á las leyes de la materia.

Notifiquese á los interesados este decreto para su conocimiento y fines consiguientes y á Don Pedro C. Carrillo, para su inteligencia en concepto, de no haber cumplido con la ampleacion de tiempo que se le concedio por este gobierno en seis de Setiembre del año anterior. Pio Pico, gobernador constitucional del departamento de Californias, asi lo mando decreto y firmo doy fé.

PIO PICO.

JOSÉ MATIAS MORENO, *Secretario Ynterino.*

Cuya trascricion hago á V. V. para los fines que les convenga. Dios y libertad. Angeles, 27 de Mayo, de 1846.

(Signed) JOSÉ MATIAS MORENO,
S'rio Ynt'o.

Señores Don FRANCISCO LOPEZ, Don LUIS JORDAN,
Y Don VICENTE BOTILLER.

Filed in office, October 29th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

D.—*Translation of C.*

In the denouncement attempted by you on the 21st of August, of the year past, of the tract of Los Alamos, of Don Pedro C. Carillo, the following superior decree has been issued:

ANGELES, *May 27th*, 1846.

This government, considering, in view of the proceedings that exist in this expediente in relation to the denunciation that was made on the 21st of August of last year by citizens Francisco Lopez, Luis Jordan and Vicente Boteller, of the tract of "Los Alamos," and in view of his having delayed beyond the seven months that in extension were granted to citizen Pedro C. Carillo, in order that he might settle it agreeably to what was required by the laws and regulations in colonization, and in consideration of the prejudices that are caused to the industry of the country by the non-occupation of the land suitable for colonization; as also that the aforesaid persons who denounce this tract need the same, because not having any land where they may be able to enjoy their industry, and to maintain their stock—

I have thought proper, by these present letters, to declare that there is justice in the denunciation of the tract of "Los Alamos," in favor of Señores Lopez, Jordan and Boteller, to whom the respective title shall be issued, agreeably to the laws on the subject.

Let the interested parties be notified of this decree for their recognition and further ends, and to Don Pedro C. Carrillo, for his intelligence, in view of his not having complied with the extension of time that was granted to him by this government, on the sixth of September of the present year.

Pio Pico, constitutional governor of the department of the Californias, thus did command, decree, and sign, which I certify.

PIO PICO.

JOSÉ MATIAS MORENO,
Secretary ad interim.

Which transcript I send to you for the ends that may be suitable.

JOSÉ MATIAS MORENO,
Secretary ad interim.

Filed in office, October 29th, 1852.

GEO. FISHER, *Secretary.*

Deed from Luis Jordan to J. L. Brent.

A todos quienes las presentes vieren sabed, que yó Luis Jordan por y en consideracion de quicientos pesos contado á mi mano pagado por el Señor D. J. L. Brent, he vendido cedido y traspasado y por estas vendo, cedo y trasparo al dicho D. J. L. Brent, la mitad de todo el derecho y titulo que tengo á un terreno situado en el condado de los Angeles, y conocido por el nombre de "los Alamos y Agua Caliente," (el dicho titulo y derecho siendo á don leguas y la dicha mitad vendido por estas siendo una legua) para tener y para haber al uso y beneficio del dicho Brent, sus herederos y succesores para siempre jamas.

El terreno vendido por este documento es el mismo que fué concedido por Don Pio Pico gobernador de las Californias, con fecha 27 Mayo, de 1846, á Francisco Lopez, á mi y á Vicente Botiller y declaro que mi dicho derecho no esta enagenado ni empeñado de ningun modo.

En cuyo testimonio pongo mi mano y sello á este documento hoy 27 Octubre, 1852, en la ciudad y condado de los Angeles.

(Signed) LUIS JORDAN. [L. S.]

Sellado firmado y entregado en presencia de—

(Signed) AGUSTIN OLVERA,
JAMES T. OVERSTREET.

STATE OF CALIFORNIA,
County of Los Angeles.

On this, the twenty-seventh day of October, in the year of our Lord one thousand eight hundred and fifty-two, personally appeared before me, Wilson W. Jones, county clerk in and for the county of Los Angeles, Luis Jordan, who I know to be the person described in, and who executed the within and foregoing deed of conveyance, and acknowledged to me that he executed the said deed of conveyance freely and voluntarily, without any undue influence, but for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto subscribed my name as clerk of said county, and affixed the seal of my office, the day and date above written. [L. S.]

(Signed) WILSON W. JONES, *Clk.*
Per H. R. MYLES, *Deputy.*

Received the within and foregoing document for record on the 27th day of October, A. D. 1852, at fifteen minutes past 12 o'clock p. m.

Recorded the same, October the 28th, A. D. 1852, at ten minutes past 11 o'clock, a. m., in the book of deeds, on pages 243 and 244, at the request of J. Lancaster Brent, esq.

(Signed) WILSON W. JONES, *Recorder.*
By H. R. MYLES, *Deputy.*

Filed in office, July 10th, 1854.

(Signed) GEO. FISHER, *Secretary.*

Translation of Deed.

All who may the present see, know that I, Luis Jordan, for and in consideration of five hundred dollars, to me cash in hand paid by J. L. Brent, have sold, ceded, and transferred, and by the present do sell, cede, and transfer, to said J. L. Brent, the one-half of all the right and title which I have to a tract situated in the county of Los Angeles, and known by the name of "Los Alamos and Agua Caliente," (said right and title being to two leagues, and the said one-half sold by the present being one league;) to have and to hold to the use and benefit of said Brent, his heirs and successors forever. The tract sold by this instrument is the same which was granted by Don Pio Pico, governor of the Californias, bearing date 27th May, 1846, to Francisco Lopez, to myself, and to Vicente Boteller, and I declare that my said right is neither alienated nor mortgaged in any manner.

In testimony whereof, I set my hand and seal to this document, this 27th October, 1852, in the city and county of Los Angeles.

LUIS JORDAN. [SEAL.]

Sealed, signed and delivered in presence of—
JAMES T. OVERSTREET.

Filed in office, July 10th, 1854.

GEO. FISHER, *Secretary.*

Opinion of the Board.

AGUSTIN OLVERA et al.
vs.
THE UNITED STATES.

For the place called "Los Alamos y Agua Caliente," in Los Angeles county, containing six square leagues of land.

The petitioners claim the title to the land through a grant, which is given in evidence, made by Governor Pio Pico to Francisco Lopez, Vicente Boteller and Luis Jordan, dated May 27th, 1846.

Two of the present petitioners are original grantees, the third holds the interest of the other grantee, and the fourth petitioner claims under a conveyance from said Jordan to him of one-half of his interest in the premises.

The grantees never lived on the place, or made any improvements or cultivated thereon. One of the witnesses states that Francisco Lopez went to the place, and took tools with him, to establish a rancho; but in consequence of the war, at the time Fremont came, he left his tools with Indians, and went away, and on account of the sickness of his father, and other engagements, did not go to the place again.

No other effort seems to have been made by the grantees to comply with the condition of inhabitancy or cultivation. It is claimed that the breaking out of the war in California, which had been commenced by the act of Mexico, the conquest of the country which

immediately succeeded, and the subsequent cession of the territory, not only excused the grantees from the performance of the conditions of settlement or cultivation, but rendered compliance impossible, and gave them a right to the land free from conditions.

An objection of a different character is also presented in this case, and as the latter must prove fatal to the claim here set up, I do not deem it necessary to decide or discuss the former.

There is no segregation of the land, either by a description of the title-papers defining the limits of the premises granted, and which may be traced by a surveyor, or by actual measurement on the ground.

No juridical possession of the premises was given; the land granted was precisely six square leagues, and a map attached to the espediente was referred to as exhibiting the tract of land within which it was to be located by the proper officer.

The map delineates a much larger tract of land within which this grant was to be located, and its measurement was needed to fix the grantee's right to any specific portion of it. This they failed to obtain, and it is now too late to remedy the evil. Congress only can give relief in such cases.

It is not among the powers delegated to this commission to give boundaries to incipient grants, which have none, or to confirm more privileges to locate a given quantity of land within specified limits, where the party interested has failed to obtain, in the manner specified in his grant, the required segregation.

The claim is not within the rules which authorized a confirmation.

Rejected.

Filed in office August 15th, 1854.

GEO. FISHER, *Secretary.*

Decree.

AGUSTIN OLVERA et al.
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioners is not valid, and it is therefore decreed that his application for a confirmation thereof be denied.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commiss'rs.

Filed in office Aug. 15th, 1854.

GEO. FISHER, *Secretary.*

And it appearing, to the satisfaction of this board, that the land hereby adjudicated is situated in the southern district of California,

it is hereby ordered that two transcripts of the proceedings, and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary; one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other to be transmitted to the Attorney General of the United States.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify that the foregoing forty-five pages, numbered from 1 to 45, both inclusive, *to* contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the s me is founded, on file in this office in case No. 428 on the docket of the said board, wherein "Agustin Olvera et al." are the claimants against the United States, for the place known by the name of "Los Alamos y Agua Caliente."

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office) at San Francisco, California, this fourteenth day of December, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

[SEAL.]

GEO. FISHER, *S'y.*

Notice of intention to prosecute Appeal.

In the U. S. District Court for the southern district of California.

AGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTELLER, and JOSEPH L. BRENT, Appellants,
vs.
THE UNITED STATES.
} No. 183.

Appeal from the final decision of the board of commissioners to ascertain and settle the private land claims in the State of California, taken on the 19th Dec. 1854, by the said board having filed with the clerk of said court a certified transcript of their proceedings and decision, of the papers and evidence upon which the same are founded, in the said cause, being No. 428 on the docket of said board.

Now, it is hereby given that the above named appellants, claimants before said board, in a claim for a tract of land called "Los Alamos y Agua Caliente," situated in the said southern district, filed before said board Oct. 29th, 1852, being on its docket No. 428, will prosecute the appeal herein, from the final decision of

said board, entered on 15th August, 1854, against and adverse to said claimants and appellants.

J. LANCASTER BRENT,
Att'y for Appellants.

Filed April 25th, 1855.

C. E. CARR, *Clerk.*

Petition for Review.

In the District Court of the United States for the southern district of California.

AGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTELLER, and J. LANCASTER BRENT, Appellants, vs. THE UNITED STATES, Appellee.	Case No. 183.—Land Commission No. 428. Claim for "Los Alamos y Agua Caliente."

To the Honorable J. S. K. Ogier, Judge of the United States District Court, in and for the southern district of California:

The petition of Agustin Olvera, Luis Jordan, Vicente Boteller, and J. Lancaster Brent, respectfully showeth, that on the 27th day of May, 1846, Pio Pico, then constitutional governor of the department of the Californias, by virtue of the authority in him by law vested, executed and delivered to Francisco Lopez, Luis Jordan and Vicente Boteller, a deed of grant bearing date as aforesaid, whereby he granted to them all that certain tract of land known by the name of "Los Alamos y Agua Caliente," and situate in the county of Los Angeles, and in the said southern district of California, more particularly described in a petition filed by your petitioners on the 29th day of October, 1852, before the United States land commission to ascertain and settle the private land claims in California, and the papers and proceedings thereupon had which are here specially referred to, and that after the said 27th day of May, 1846, the said grantees entered upon and took possession of the said granted premises.

And your petitioners further state, that in the year 1851, the said Francisco Lopez, one of the grantees, died without wife or lawful issue, leaving his father, Francisco Lopez, and his mother, Maria Antonio Felis, his heirs and next of kin, who afterwards, to wit, on the 15th day of October, 1852, by their deed executed and delivered, for a valuable consideration therein mentioned, sold and conveyed their right in the above granted premises, to your petitioner, Agustin Olvera.

And your petitioners further state, that on the 27th day of October, 1852, the above named Luis Jordan, one of the said grantees, by his deed executed and delivered, for a valuable consideration therein mentioned, sold and conveyed one half of his right in the said granted premises unto your petitioner, J. Lancaster Brent.

And your petitioners further state, that on the 29th day of October, 1852, they filed their petition claiming the said premises before the said land commissioners while sitting as a board, together with documentary evidence and the testimony of witnesses; and that afterwards, to wit, on the 15th day of August, 1854, the said board proceeded to decide upon the validity of said claim, and rejected the same.

That afterwards, to wit, on the 19th day of December, 1854, an appeal was taken, the said board having filed in the office of the clerk of your honorable court a certified transcript of their proceedings and final decision, and of the papers and evidence upon which the same was founded.

And that afterwards, to wit, on the 25th day of May, 1855, your said petitioners filed in the office of the said clerk a notice of their intention to prosecute said appeal.

Wherefore your petitioners pray that the decision of the said commissioners may be reversed, and their title to the said premises may be confirmed, and for general relief and for costs, and, as in duty, etc.

J. LANCASTER BRENT,
Att'y for Pet'rs.

Filed September 19th, 1855.

C. E. CARR, *Clerk.*
By JOHN A. ROSS, *Dep'y.*

Order for new Testimony.

In the District Court of the United States in and for the southern district of California.

AGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTILLER, and J. LANCASTER BRENT, Appellants, vs. THE UNITED STATES, Appellees. } Case No. 183.—Transcript 428. "Los Alamos y Agua Caliente."

On motion of J. Lancaster Brent, counsel for appellants, ordered that additional testimony be taken by either party in the above cause.

Filed October 8th, 1855.

C. E. CARR, *Cl'k.*
By J. W. ROSS, *Dep'y.*

Summons.

UNITED STATES OF AMERICA,
Southern District of California, ss.

The President of the United States to P. Ord, U. S. Dis't Att'y for the southern district of California:

Take notice that a petition, a copy of which is herewith served upon you, has been filed against the United States, in the district

court of the United States, in and for the southern district of California, on the 19th day of September, in the year of our Lord one thousand eight hundred and fifty-five, at the city and county of Los Angeles, in said district, by Agustin Olvera, Luis Jordan, Vicente Botiller, and J. Lancaster Brent, praying the court to review the decision of the U. S. land commissioners, rejecting their claim to a tract of land called "Los Alamos y Agua Caliente."

And that you are required to appear at said court, in said city, within ten days after the service hereof, if served on you within the county of Los Angeles, and within twenty days if served on you within the county of San Diego or San Bernardino, and within forty days if served on you in any other county of said State, exclusive of the day of service, and answer said petition, or the petitioner will apply to the court for the relief demanded therein.

In witness whereof, I have hereunto set my hand and affixed the seal of said court at the city of Los Angeles, this 15th day of December, A. D. 1855. [L. S.]

C. E. CARR, *Cl'k.*

I served this summons, together with a certified copy of the petition, upon P. Ord, U. S. att'y for southern district of Calif'a, by delivering to him personally a true copy of the same at Los Angeles, in the southern district of California, on the 26th day of Dec., A. D. 1855.

EDWARD HUNTER,
U. S. Marshal.
Per M. L. GOODMAN, *Deputy.*

Sworn to and subscribed before me 26th December, 1855.
C. E. CARR, *Clerk.*
By O. MORGAN, *Dep'y.*

Answer of U. S. Attorney.

In the District Court of the United States for the southern district of California. Hon. Isaac S. K. Ogier, judge.

AGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTILLER, and J. LANCASTER BRENT, Appellants,
vs.
THE UNITED STATES, Appellees.
} Case No. 183.—Transcript No. 428.

The answer of Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, to the petition of Agustin Olvera, Luis Jordan, Vicente Botiller, and J. Lancaster Brent, for a review and reversal of the decision of the United States land commission to ascertain and settle the private land claims in California, rejecting their claim to a certain tract of land known by the name of "Los Alamos y

Agua Caliente," says, that he denies all and singular, each and every allegation in the said petition contained; and further, this respondent denies generally the validity of the alleged title of the said claimants to the said tracts of land. And the said respondent prays that this honorable court will affirm the decision of the said commissioners in said case, and decree the said alleged title to be invalid, and for general relief.

P. ORD,
Attorney of the United States for the southern district of California.

Filed January 4th, 1856.

C. E. CARR, *Cl'k.*

Deposition of Andres Pico.

Deposition of Andres Pico, taken before C. Sims, United States commissioner for the district of California, at the United States court-house in the city of Los Angeles, on Monday, the eighth day of December, 1856, at 12 o'clock, m., by consent and agreement of parties, to be used in testimony on behalf of the claimant, in a certain cause now pending in the U. S. district court for the southern district of California, being case No. 183 on docket of said court, wherein Augustin Olvera et al. are appellants and claimants, and the United States are appellee.

Present: Pacificus Ord, U. S. att'y on behalf of the appellee, and J. L. Brent, att'y for appellants.

Andres Pico being duly sworn, deposes and says:

Question. What is your name, age, and place of residence?

Answer. My name is Andres Pico; I am 45 years of age, and reside in Los Angeles, State of California.

Quest. Were you acquainted with Francisco R. Lopez, one of the grantees of lands claimed herein? if yes, state anything you know relative to his attempting to occupy or occupying the said lands.

Ans. I knew him in 1846; Francisco R. Lopez arrived at the mission of San Fernando, where I was then living, with some few cattle, and said that he was going to occupy "Los Alamos;" he went towards the Alamos with his cattle, and after some days came back and told me that his servants would not remain on that land, for fear of the Indians; this was before the war.

Quest. Is Francisco R. Lopez alive or dead? if he is dead, state what relations he left.

Ans. He is dead; he died childless and without a wife, being a widower; he was the only child of Francisco Lopez, and of his wife Maria Antonio Felis; both of whom he left living.

Quest. When did Francisco Lopez die?

Ans. He died in the year 1851.

ANDRES PICO.

Sworn and subscribed to before me this 8th day of Dec., 1856.

C. SIMS,
U. S. Commissioner for district of California.

STATE OF CALIFORNIA,
County of Los Angeles.

I, C. Sims, United States commissioner for the district of California, do hereby certify that the foregoing deposition of Andres Pico was taken before me, in accordance with the request and agreement of said attorneys, at the United States court-house, in the city of Los Angeles, State of California; that the said Andres Pico was by me duly sworn, according to law, as a witness in said cause in the caption of this deposition mentioned, and after being so sworn, his testimony was by me reduced to writing in his presence, and that of the said attorneys, and after having been by me carefully read to him, and by him corrected as he desired, was by him signed in my presence.

In testimony whereof, I have hereto set my hand and affixed my [L. S.] private seal, there being no official seal, this 8th day of December, A. D. 1856.

C. SIMS,
U. States Commissioner
for the Dis't of California.

Filed December 8th, 1856.

C. SIMS, *Cl'k.*

Translations wanting or incorrect in Transcript.

In the United States District Court, southern district of California.

AGUSTIN OLVERA et al., Appellants, vs. THE UNITED STATES, Appellees. } Case No. 183.—"Los Alamos y Agua Caliente."

Translation of Certificate to Map, page 8 of Transcript, marked H. H. No. 3.

Secretary's Office of the Government
[Eagle.]
of the Department of the Californias.

The undersigned, secretary ad interim of the government of the department of the Californias, certifies that the map which is shown opposite is a copy of the original in existence in the secretary's office of my charge.

JOSÉ MATIAS MORENO,
Sec'ry ad In.

Translation of the Espediente from page 10 to page 17 of Transcript.

1846.

Espediente promoted by Don Francisco R. Lòpez and associates, denouncing the tract of land known by the name of "Alamos y Agua Caliente," year 1845.

No. 560.

{Seal of Depart'l Govern'm nt.}

Most Excellent Sir Governor:

Francisco R. Lopez, Luis Jordan and Vicente Botiller, Mexicans by birth, and residents in this capital, respectfully, and according a place in law may to us belong, present ourselves to your excellency, representing, that in virtue of having a considerable quantity of stock to take care of, and finding ourselves in immediate need of an available tract, in order that our property can remain together, and increase in future, it is of the utmost necessity to us to implore the goodness of your excellency, to the end that you may grant us the tract of land known by the name of "Los Alamos y Agua Caliente," which belongs to Don Pedro Carrillo by just title issued to him by the government of this department, and in virtue of Señor Carrillo having failed to comply with the first article of the corresponding despatch, as the law provides, and as up to date he has not cultivated it, we denounce it as vacant, which is actually its condition.

Therefore we humbly pray your excellency to grant our petition, and that the proper examinations may proceed; observing that we are in need of the place for which we apply as we have above set forth, as also that it will be a general benefit, by preventing robberies on the ranchos that the Indian thieves continually prejudice, to proceed to build a house and plant fruit trees for subsistence.

Excusing this being presented on common paper, there being none in this place of the proper stamp, a favor for which we shall live grateful, receiving from your well known goodness, favor and grace, making the necessary oath, and it not being of malice, etc.

Angeles, August 21st, 1845.

FRANC'O R. LOPEZ.
LUIS JORDAN.
At request of VICENTE BOTILLER,
CAYETANO ARENAS.

ANGELES, *August* 21, 1845.

Pass to the 1st alcalde of this city, in order that, making citation of the party, Don Pedro Carrillo, this petition may be delivered to him, to the end that he may allege what pertains to his rights, and being concluded, return to the government.

PICO.

ANGELES, *August* 22, 1845.

Agreeably to what is directed by the superior authority in the decree of the margin of this application, let a copy be presented to Don Pedro Carrillo, that he may answer within three days what may pertain to his right.

I, the 1st judge, so decreed, ordered and subscribed, with the assisting witnesses, according to law.

VICENTE SANCHEZ.

Ass't, IGNACIO CORONEL,
Ass't, LEONARDO COTA.

On the same day the copy was forwarded, and the espediente on two sheets was delivered to Señor Carrillo.

Map of "Los Alamos y Agua Caliente."

Señor Judge of First Instance:

I, Pedro C. Carrillo, a resident of this city, before you with due respect, and under the terms most suitable in law, appear, representing—

That in answer to the copy which, by superior direction, you have been pleased to forward to me, of the espediente promoted by the Señores Francisco Lopez and associates, relative to denouncing against me the tract of land called Alamos y Agua Caliente, which was assigned me in fee, I ought to represent:

That said denouncers say they have a considerable quantity of live stock, and that they are in need of an available tract of land, where it can remain together. I do not know, señor judge, of what description this live stock may be, for it is notorious that neither of the three is owner of the number of breeding cows that the law requires in order to be admitted in petition of this nature; for, as regards the first, I do not know, up to date, that he is the possessor of even one yoke of oxen; as to the second, it is well known that the small quantity of cattle remaining in his possession belongs to the heirs of the late Don Antonio Rocha, and they already hold granted to them a tract of land, and it is there that these cattle actually are; as to the third, I am entirely ignorant whether he has a horse or not; but, in fine, neither of the three has the property of the law, as I have said; still less have they the means to check the depredations of the Indians as they offer to do; as for that, a detachment of armed men is necessary.

Wherefore I pray that you will be pleased to inform yourself from trustworthy persons concerning the description and number of live stock that the said denouncers possess; and this being concluded, that you will be pleased to return the espediente, to allege what may belong to my right. I make oath, etc. Admitting me on this common paper for want of stamped.

Angeles, August 27th, 1845.

PEDRO C. CARRILLO.

EXCELLENT SIR: I have the honor to elevate to the hand of your excellency the foregoing matter as I am directed.

VICENTE SANCHEZ.

ANGELES, *August 30th*, 1845.

{ Seal of the Departmental Government. }

As it is not the province of the party, Don Pedro Carrillo, to report as to whether the parties interested in the application, with which this espediente commences, have or have not the legal requisites to be heard, return this to the señor first alcalde of this capital, to the end that he may make a new transcript for Señor Carrillo, so that he may allege what he may believe to be his rights with respect to the denouncement of the tract of Los Alamos.

PICO.

ANGELES, *August 30th*, 1845.

As the superior authority directs, passed over to Don Pedro Carrillo for three working days. I, the judge who subscribes, so decreed and ordered according to law.

VICENTE SANCHEZ.

Ass't, IGNACIO CORONEL,
Ass't, LEONARDO COTA.

Señor Judge of First Instance:

I, Pedro C. Carrillo, of this place, present myself before you, as I may in right best appear, and say:

That, as in many cases one cannot foresee the disappointments to which he may be exposed, and these having been frequent in my case, I have met with difficulties in taking speedy occupation of the tract of land belonging to me, which has now been denounced against me; but it has not been my intention on this account to abandon it, nor have I ceased to want it; and in order to accomplish the establishment of the rancho, I will believe that the superior government will use the prudence for which it is noted, favoring me with its consideration, and I therefore conclude, praying that, on account of the former ownership, which, by a just title, I acquired, it will assign me a term sufficient to give me time to improve the land, under the solemn protest that I will comply faithfully, or in case of non-performance, let there be place for the denouncement. Favor which I hope to obtain from the most excellent señor governor. I make oath, etc.

Angeles, September 5th, 1845.

PEDRO C. CARRILLO.

EXCELLENT SIR: Having complied with what is directed by the superior authority, I have the honor to place this espediente in the hands of your excellency.

VICENTE SANCHEZ.

ANGELES, *September 6th*, 1845.

{ Seal of the Departmental Government. }

Having been seen the last written on the part of Don Pedro

Carrillo, with which this espediente concludes, the impediment which has made the occupation of the lands of "Los Alamos" difficult for him, according to his frank confession, being held for legal, and attending to the prayer which he addresses to the superior government, in order that he may be able to improve said lands, I have decided to grant him the extension of seven months, reckoned from this date, so that he may accomplish it, with the understanding, that if at the expiration of the term he shall not have complied with what has been directed, there shall be place for the denouncement on the part of whomsoever may make a representation, and the aforesaid tract of "Los Alamos y Agua Caliente" shall be assigned them in fee; for the government cannot permit assigned lands, capable of being occupied, to remain without the improvement which is indispensable.

Let notice of this decision be given to the party, Don Pedro Carrillo, for his understanding, and return this to the parties interested, their application not having been entertained at this time.

I, Pio Pico, governor, ad interim, of the department of the Californias, so decreed, ordered and signed.

Attest:

PIO PICO.

MOST EXCELLENT SIR: We, Francisco Lopez, Luis Jordan, and Vicente Botiller, residents of this capital, before your excellency respectfully, and, as most there may be place, according to law, present ourselves, saying:

That in virtue of the term of seven months, reckoned from the 6th day of September last, having elapsed, which by superior direction was notified to the party, citizen Pedro Carrillo, to the end that within said term he should improve the lands of "Los Alamos y Agua Caliente," which were denounced against him by the undersigned, under date of August 21st of the last year; and said Señor Carrillo having failed in performance in the aforesaid term, and in the prayer which he implored of your excellency, beseeching you that you would assign him a considerable extension, to give him an opportunity of improving it, under the understanding that he should comply with what was directed by the superior authority, according to the last decree with which the espediente of the matter concludes, and that in case of non-performance there should be place for the denouncement which might be made against him, on the part of those making an exposure: In consequence whereof, we beg your excellency to be pleased to order, in accordance with the directions of the aforesaid decree, and in conformity with the law of the 8th of August, 1824, and the regulation of the 21st November, 1828, that said tract of land may

be assigned as in fee, by reason of said term having now elapsed, and we being considered preferred claimants.

Therefore we humbly pray your excellency to see fit to favor us with your protection, hoping from your well known goodness, favor and grace, making the necessary oath that it is not of malice, etc.

Being pleased to admit this on common paper, there being none of the proper stamp in this place.

Angeles, April 8th, 1846.

LUIS JORDAN.
FRANCISCO LOPEZ.
At request of VICENTE BOTILLER,
as he does not know how to sign, CAYETANO ARENAS.

ANGELES, *May 27th*, 1846.

{ Seal of the Departmental Government. }

This government, bearing in mind, in virtue of the proceedings which appear in this espediente in relation to the denouncement, that the citizens Francisco R. Lopez, Luis Jordan, and Vicente Botiller, made on the 21st of August last, of the tract of Los Alamos, and in view of more than the seven months having elapsed which were granted to the citizen Pedro C. Carrillo, that he might stock it in conformity to the laws and regulations of colonization, and bearing in mind the evils caused to the industry of the country from the colonizable lands not being occupied, as also those which the gentlemen denouncing this tract suffer for want of a tract of land on which to bestow their industry, and keep their stock, I have come by these presents to direct, as I do, that there is place for the denouncement of the tract of "Los Alamos" in favor of Señores Lopez, Jordan, and Botiller, to whom the proper title shall issue in conformity with the laws on the matter.

Let this decree be notified to the interested parties for their understanding, and the ends consequent, and to Don Pedro C. Carrillo, for his understanding, in the conception of his not having complied with the extension of time which was granted to him by this government on the 6th of September of last year.

Pio Pico, constitutional governor of the department of the Californias, so ordered, decreed, and signed.

Attest:
JOSÉ MATIAS MORENO,
Sec. ad in.

PIO PICO.

Filed Dec. 13th, 1856.

C. SIMS, *Clk.*

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In the United States District Court for the southern district of California.

AGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTILLER, and J. LANCASTER BRENT, Appellants,
vs.
THE UNITED STATES, Appellees.

Case No. 183.—Transcript 428.

"Los Alamos y Agua Caliente."

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Note.—Translation of cert. to map, and corrected translation of espediente filed herewith. Additional testimony. Deposition of Andres Pico.

Filed Dec'r 13th, 1856.

C. SIMS, *Cl'k.*

Decree.

In the District Court of the United States for the southern district of California, December term, A. D. 1856.

AGUSTIN OLVERA et al., Appellants, vs. THE UNITED STATES, Appellees. } No 183.—Transcript 428. "Los Alamos y Agua Caliente."

This cause coming on to be heard on appeal from the decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved March 3d, 1851, on a transcript of the decision and proceedings of said board, and of the papers and evidence upon which said decision was founded, and on additional evidence taken before this court, and it appearing to the court that said transcript and the notice of appeal have been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed, that the decision of said board of commissioners be, and the same hereby is, in all things reversed.

And it is further adjudged and decreed, that the claim of the appellants to the lands called "Los Alamos y Agua Caliente," claimed in this case, is good and valid, and the same are hereby confirmed to them to the extent of six (6) square leagues, and no more, within the boundaries described in the map attached to and forming part of the espediente, and referred to in the grant, to wit: to the north, the "Lomeria de Castic;" to the east, a "Lomeria"

and "Chamiso," and the "Piñal de Tomo;" to the south, a "Lomeria" and "Chamiso;" and to the west, a "Lomeria Pastora," or low grassy hills; reference being had to the aforesaid map for a more particular description: provided, that should there be a less quantity than six square leagues of land within said boundaries, then confirmation is hereby made of such less quantity.

Thus done and signed in open court, this 15th day of December, 1856.

ISAAC S. K. OGIER,
U. S. Dist. Judge for the
S. dist. of Cal.

Filed this 15th Dec., 1856.

C. SIMS, *Cl'k.*
Per J. H. COLEMAN, *Dep'y.*

Order to Appeal.

On motion of P. Ord, U. S. dist. att'y, it is ordered that an appeal be allowed the United States in the following cases, to wit: Nos. 11, 14, 42, 50, 55, 63, 68, 69, 77, 81, 88, 90, 93, 98, 99, 100, 117, 120, 126, 127, 133, 136, 141, 144, 148, 154, 155, 156, 158, 159, 170, 181, 182, 183, 185, 186, 190, 194, 203, 205, 208, 210, 214, 216, 217, 219, 220, 224, 235, 237, 243, 245, 246, 247, 250, 251, 257, 258, 261, 262, 265, 273, 276, 280, 290, 294, 297, 302, 305, 312, 316, 320, 329, 332, 335, 337, 340, 341, 349, 354, 355, 357, 360, 361, 362, 365, 372, 376, and 384.

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, *Los Angeles.*

I, C. Sims, clerk of the United States district court for the southern district of California, hereby certify the foregoing seventy-one pages, numbered from 1 to 71, both inclusive, to contain a full, true and correct transcript of the record of the proceedings and of the decision of said court, and the papers and evidence on which said decision was founded, on file in my office, in case No. 183 on the docket of said court, wherein the United States are appellants, and Agustin Olvera et al. are appellees, for the place called "Los Alamos y Agua Caliente."

In testimony whereof, I hereto set my hand and affix the seal of [L. S.] said court, at the city of Los Angeles, this 8th day of May, A. D. 1858.

C. SIMS, *Cl'k.*
Per JAMES H. COLEMAN, *Deputy.*

Filed 21st June, 1858.